IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO . 5779 OF 2005

Smt. Anandibai Yeshwant Ajgaonkar. . .... Petitioner.

vs.

Lt. Col. Mickie Uberoi ... Respondent

V. S. Gokhale for Petitioner
Respondent present in person.

CORAM: SMT. NISHITA MHATRE J.

Date: 19/9/2005

P.C.

1. This petition challenges the order dated 5.4.2005 of the Appellate Court whereby the Appellate Court has concluded that the Respondent is the landlord of the said premises. The Respondent claims to be the grand son of the original landlady. He claims that he is now owner of the suit property in view of the will of his deceased grand mother. Eviction suits were filed by him before the competent authority. The competent authority has held that he was unable to prove his title to the suit property and held that he was not the landlord. Aggrieved by this decision the Respondent filed a revision before the Additional Commissioner, Pune Division. The Additional Commissioner has declared him as the owner of the suit premises.

2. The submission of the learned advocate for the Petitioner is that the Appellate Court has ignored the fact that the competent authority

had not dealt with two documents viz., 7/12 extract and the certificate issued by the Commanding Officer regarding proof of ownership. It is true that the competent authority has not dealt with the said documents. The certificate of the Commanding Officer with respect to the ownership cannot be a conclusive proof. The Appellate Court has therefore erred in accepting this certificate to be conclusive proof of ownership. However, there is no dispute that the Petitioner has been paying rent to the Respondent continuously. By notice dated 26th March 2000 the Petitioner called on the Respondent herein to pay the rent. This notice was received by the Petitioner on 26th April 2000. The Petitioner has categorically stated that she continued to pay rent from 1st September 1994 to the date of reply. She denied that she was in arrears of rent at all. Therefore , the submission of the Petitioner that she did not accept the title of the Respondent cannot be accepted. Reliance placed by the Respondent, who appears in person, on the decisions, in the case of in the case of **Tej Bhan Madan vs. II Additional District Judge and ors.**, reported in AIR 1988 SC 1413 and in the case of **Smt. Sugga Bai and ors. vs. Smt. Hiralal and ors.** , reported in AIR 1969 M. P. 32, is apt. In my view the appellate court has not erred in its finding, that the Petitioner having not denied the title of the Respondent at any point of time cannot now deny the same.

3. Petition rejected.

(SMT. NISHITA MHATRE J.)

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